IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11307 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PATEL USHABEN NARENDRAKUMAR

Versus

UNION OF INDIA

Appearance:

MR RC JANI for Petitioner

MR UI VYAS for Respondent No. 1

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 21/11/2000

ORAL JUDGEMENT

1. Heard Mr.R.C.Jani, learned counsel appearing on behalf of the petitioner and Mr.U.I.Vyas, learned CGSC appearing on behalf of the respondent No.1. Rule. Mr.U.I.Vyas waives service of rule on behalf of the

respondent No.1.

2. In this petition under Article 226 of the Constitution, the petitioner has prayed for a writ of mandamus, directing the respondent no.2 either to correct the date of birth of the petitioner in the Passport No.B-2490595 issued by the Regional Passport Officer, Ahmedabad on 12-9-2000, or to issue a fresh passport. It is submitted by learned counsel for the petitioner that there is an error in the date of birth of the petitioner recorded in the passport issued by the respondent no.2. The actual date of birth of the petitioner is 14-12-1963 as per the birth certificate issued by the Visnagar Municipal Corporation. It is submitted that while applying for passport the petitioner mentioned her date of birth as 18-12-1963. It is also submitted by learned counsel that the petitioner has passed the H.S.C. Examination and in the school leaving certificate issued by the N.M.Nootan Sarva Vidyalaya, Visnagar the date of birth has been wrongly mentioned as 18-12-1963 and that error continued till the petitioner obtained the birth certificate from Visnagar Municipality. It is submitted by learned counsel for the petitioner that the date of birth entered in the Birth & Death Register maintained by the Visnagar Municipality is an authentic document and according to the authentic register, the date of birth of the petitioner is 14-12-1963. The petitioner was earlier issued with the passport showing the date of birth according to her School Leaving Certificate, which was a mistake and thereafter, the petitioner made a request to the respondent authority to make necessary correction in the passport with respect to her date of birth, that is as per the birth certificate issued by Visnagar Municipality at Annexure-A. But the said request was turned down by the respondent authority on the ground that for correction in the passport order from the Court is required and hence this petition.

3. In view of the settled position that, if there is any discrepancy between the birth date recorded in the birth certificate issued by the Municipality/Local authority and the birth date recorded by the School authority, the birth certificate issued by the school authority should not be prevailed. The Regional Passport Officer should not have any hesitation in accepting the petitioner's request for recording the birth date in the passport on the basis of the birth certificate issued by the Visnagar Municipality at Annexure-A to the petition. I have also heard Mr.U.I.Vyas, learned CGSC on behalf of the respondent Regional Passport Officer, Ahmedabad. Learned Counsel submitted that this Court has passed

earlier orders accepting the date of birth on the basis of the birth certificate issued by the Municipality or local body.

4. In view of the above discussions, the petition is allowed. Regional Passport Officer, Ahmedabad is directed to consider petitioner's request for change of date of birth in the passport in accordance with law, and on the basis of the material which may be placed before the Regional Passport Officer, Ahmedabad, more particularly the birth certificate issued by Visnagar Municipality at Annexure-A to the petition, and shall pass appropriate orders within a period of one month from the date of receipt of this order or a certified copy of this order, whichever is earlier. In case the petitioner is required to apply for fresh passport, the petitioner shall comply with the requisite formalities for the same. Accordingly the petition is allowed in the aforesaid terms. Rule is made absolute to the aforesaid extent.

5. Since the respondent is not responsible for the mistake in question, the petitioner shall pay cost of this petition which is quantified at Rs.1,500/- to the respondent, within two weeks from today. Direct service permitted.

21-11-2000 (P.K.Sarkar, J.)

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